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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,797	01/31/2005	Roland Raupach	MERCK-2970	6781

23599 7590 12/19/2005

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EXAMINER

CHEN, VIVIAN

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/522,797

Applicant(s)

RAUPACH ET AL.

Examiner

Vivian Chen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1-2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 14, the phrase "double sacks" is unclear and confusing.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over KULPER ET AL (US 5,843,547), in view of KOSSLINGER (US 6,066,437).

KULPER ET AL discloses a laser-markable laminate comprising a base layer containing a laser-sensitive additive or pigment, and at least one laser-transmissive protective layer over the base layer, wherein the base layer comprises a polymer (e.g., polyester, polyolefin, etc.) wherein

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the laminate is marked by imaging the base layer with a Nd-YAG laser through the transparent protective layer. (entire document, in particular Abstract; line 7-30, col. 3)

KOSSLINGER discloses that it is well known in the art to make transparent layers overlaying an laser-markable layer readily separable from the markable layer in order to provide useful label structures. (Figure 3; line 60, col. 4 to line 5, col. 5)

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to make one or more of the protective layers in KULPER ET AL readily removable in order to provide useful label structures for various applications and/or provide tamper indicators.

5. Claims 2-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over KULPER ET AL (US 5,843,547), in view of KOSSLINGER (US 6,066,437) as applied to claim 1 above, and further in view of KNIEB ET AL (US 2001,0030179).

KNIEB ET AL discloses that it is well known in the art to use TiO_2 or $(\text{Sn,Sb})\text{O}_2$ coated mica flakes in typical amounts up to 10 wt% as laser-sensitive pigments for making useful laser-markable articles. (paragraphs 8-9, 15-22)

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate known laser-sensitive additives as disclosed in KNIEB ET AL in the laminates of KULPER ET AL in order to obtain high-visibility markings.

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6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over KULPER ET AL (US 5,843,547), in view of KOSSLINGER (US 6,066,437) as applied to claim 1 above, and further in view of OGNISSANTI ET AL (US 6,670,008).

OGNISSANTI ET AL discloses that it is well known in the art to join layers of a label structure with a discontinuous adhesive layer in order to provide tamper evident structures.

(Figure 3)

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to adjust the coverage and degree of bonding between the base layer and cover layer(s) in KULPER ET AL depending on the desired peel characteristics and/or security features for specific applications.

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Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivian Chen whose telephone number is (571) 272-1506. The examiner can normally be reached on Monday through Thursday from 8:30 AM to 6 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney, can be reached on (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

The General Information telephone number for Technology Center 1700 is (571) 272-1700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 8, 2005



Vivian Chen
Primary Examiner
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